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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,268	06/01/2005	Pia Baum	272481US0PCT	1119
22850	7590	03/20/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
NGUYEN, KHANH TUAN				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
03/20/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/537,268

Applicant(s)

BAUM ET AL.

Examiner

KHANH T. NGUYEN

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-24, 26, 30-37 and 39-46 is/are pending in the application.
- 4a) Of the above claim(s) 20-24, 26, 30-37 and 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/888)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/07/2008 has been entered.
2. The amendment filed on 03/07/2008 is entered and acknowledged by the Examiner. Claims 20-24, 26, 30-37 and 39-46 are currently pending in the instant application. Claims 20-24, 26, 30-37 and 39 have been withdrawn from further consideration. Claims 1-19, 25, 27-29, and 38 have been canceled.
3. The rejection of claims 25 and 27 under 35 U.S.C 102(b) or 35 U.S.C. 103(a) as anticipated by or obvious over Abel et al. (U.S. Pat. 4,705,525) is rendered moot in view of Applicant's cancellation of these claims. The rejection of claims 27 and 29 under 35 U.S.C 102(b) or 35 U.S.C. 103(a) as anticipated by or obvious over Bockh et al. (U.S. Pat. 6,165,969) is rendered moot in view of Applicant's cancellation of these claims. The rejection of claim 38 under 35 U.S.C 102(b) as being anticipated by Abel et al. (U.S. Pat. 4,705,525) is rendered moot in view of Applicant's cancellation of this claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 40-43 and 45-46 are rejected under 35 U.S.C. 102(a)/(e) as being anticipated by Takagi et al. (U.S. Pat. 6,447,696 hereinafter, "Takagi").

With respect to claims 40-43 and 45-46, Takagi discloses a process for producing a grafted polymer comprises the steps of: polymerizing an alkylene oxide component with an ethylene oxide content of at least 50 mol % to obtain a polyether

compound (A) having a number-average molecular weight of not lower than 200 (Col 2, lines 29-34). The disclosed polyether compound (A) is considered readable on the claimed polymeric grafting base A which contains no monoethylenically unsaturated units. Takagi further discloses graft-polymerizing a graft component (B) onto the said polyether compound (A) in a ratio such that the graft component (B) is in the range of 0.1.about 1.2 weight parts per 1 weight part of the polyether compound (A), wherein the graft component (B) includes N-vinylpyrrolidone (b1) as an essential component and might further include a monoethylenically unsaturated monomer (b2), wherein the monomer (b2) may includes a cationic monoethylenically unsaturated monomer (b2-2) such as N-vinylimidazole (Col. 2, lines 34-44 and Col. 5, lines 16-19). The disclosure of N-vinylpyrrolidone (b1) monomer and N-vinylimidazole (b2-2) monomer are considered readable on the claimed B1 and B2 monomers. Takagi further exemplify at Example 2, the combination of N-vinylpyrrolidone and N-vinylimidazole monomers polymerizing with polyethylene glycol. In addition, it has been held that the recitation that an element is "adapted to" perform or is "capable of" performing a function (i.e. leveling or stripping) is not a positive limitation but only requires the ability to so perform. The recitation of a new intended use (i.e. leveling or stripping agent) for an old product does not make a claim to that old product patentable, see *In re Schreiber*, 44 USPQ2d 1429 (Fed. Cir. 1997). Thus, the disclosure anticipates claims 40-43. In one embodiment, Takagi discloses a wash liquid composition comprising of 10 ppm of the grafted polymer in 500 ml of water containing surfactant (i.e. dispersant) (Col. 9, lines 29-35 and Col. 11, lines 11-17). The disclosure anticipates claims 45-46.

The reference specifically or inherently meets each of the claimed limitations in their broadest interpretations. The reference is anticipatory.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi (U.S. Pat. 6,447,696).

With respect to instant claim 44, Takagi discloses a wash liquid composition for inhibiting dye migration wherein the said composition comprises of 10 ppm of the grafted polymer in 500 ml of water matrix, which is the equivalence to 0.002 g/l (Col. 9, lines 29-35 and Col. 11, lines 11-17).

The differences between the instant application and Takagi reference is that Takagi does not suggest or disclose a method wherein the amount of polymeric agent ranges from 0.01 to 10 g/l.

However, it is within the expected skills of one having ordinary skill in the art having the desire to inhibit dye migration and transfer on textile to experiment with different concentration of polymeric agent to arrive at the optimum proportions of polymeric agent through routine experimentation for best results (i.e. a range from 0.01 to 10 g/l). As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHANH T. NGUYEN whose telephone number is (571)272-8082. The examiner can normally be reached on Monday-Friday 8:00-5:00 EST PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Lorna M Douyon/
Primary Examiner, Art Unit 1796

/KTN/
03/11/2008